

# **NEW MEXICO NATIONAL GUARD**



## **Equal Opportunity Handbook**

### **for AGRs and Traditional Guardmembers**

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MSG STEPHEN A GONZALES, STATE EQUAL EMPLOYMENT MANAGER

**JANUARY 2005**

# Equal Opportunity

## Handbook for AGRs and Guardmembers

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# Equal Opportunity

## Handbook for AGRs and Guardmembers

### Message from The Adjutant General

The New Mexico National Guard is fully committed to ensuring that every soldier and applicant for National Guard membership enjoys rights of equal treatment. Decisions based on non-merit factors such as race, color, religion, national origin, and gender do not promote my equal opportunity goals. National Guard Military Discrimination Complaint System, NGR (AR) 600-22/(AF) ANGI 36-3, contains guidance to commanders, leaders, and soldiers in the procedures of Equal Employment.

Our Equal Opportunity (EO) policy is founded in Presidential Executive Orders, Title VI to the Civil Rights Act of 1964, as amended, and DOD Directive 1350-2. It was developed to promote better relations between races and to ensure equality in treatment for all soldiers. During the past years, society has made positive changes aimed at eliminating overt discrimination. Commanders discovered that the existence of an effective EO program improved **combat readiness** and **mission accomplishment**. Subsequently, EO programs have been adopted as essential parts of management practices.

The challenges of combat readiness, today, are greater than at any time in history. These challenges make it imperative that special emphasis be placed on the most important aspect of all – **human relations readiness**. EO addresses the human element in combat readiness. It is essential that the NMNG create and maintain an environment that encourages personal and professional growth – regardless of race, color, gender, religion, or national origin.

It is the policy of the NMNG to provide an environment free of sexual harassment and to ensure EO and fair treatment to all NMNG soldiers.

KENNY C. MONTOYA,  
BG, NMARNG  
The Adjutant General

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### POLICIES

20 June 2004

MEMORANDUM FOR All New Mexico National Guard Personnel (Military, Civilian, and State)

SUBJECT: Sexual Harassment Prevention Policy

1. References:
  - a. NGR (AR) 690-600/NGR (AF) 40-1614.
  - b. NGR (AR) 600-22/(AF) ANGI 36-3.
  - c. Equal Employment Opportunity Commission (EEOC) 29 CFR, part 1614.
  - d. State Human Rights Division, State of New Mexico, Rules, Regulations, and Laws.
2. All personnel working for the New Mexico National Guard should work in a professional atmosphere free from all forms of discrimination, which includes sexual harassment. **“Sexual Harassment is wrong, and it will not be tolerated in the New Mexico National Guard!”**
3. All leaders (commanders, supervisors, managers, and team leaders) are responsible for ensuring that behavior and/or complaints of sexual harassment are given prompt attention and taken seriously. Leaders will conduct inquiries at the lowest level possible. Appropriate disciplinary action will be taken against any person(s) engaging in sexual harassment, up to and including demotion and/or dismissal, if necessary. Leaders could be held personally liable for not taking appropriate action to eliminate such behavior from the workplace.
4. The leader will report all complaints of sexual harassment in writing to the State Equal Employment Manager. This report will include: complainant’s name, name(s) of the individual(s) against whom the complaint was made, dates of the alleged harassment, the harassing behavior or act(s), and what action(s) was taken to resolve the complaint. This report is due no later than two working days from the date the complaint was reported to the leader. Mail or fax the report to New Mexico Department of Military Affairs, ATTN: NMAG-HR-EO (MSG Stephen A Gonzales), 10 Bataan Blvd., Santa Fe, New Mexico 87508-4695, (505) 474-1522 or DSN 867-8552.
5. Let me reemphasize, **“Sexual Harassment is wrong, and it will not be tolerated in the New Mexico National Guard”**.

//signed//  
KENNY C. MONTOYA,  
BG, NMARNG  
The Adjutant General

# Equal Opportunity

## Handbook for AGRs and Guardmembers

20 June 2004

MEMORANDUM FOR All New Mexico National Guard Personnel (Military and Civilian)

SUBJECT: Equal Employment Opportunity Policy

1. References:
  - a. NGR (AR) 690-600/NGR (AF) 40-1614.
  - b. NGR (AR) 600-22/(AF) ANGI 36-3.
  - c. Equal Employment Opportunity Commission (EEOC) 29 CFR, part 1614.
2. The Equal Employment Opportunity (EEO) Policy is a critical aspect of every employee, especially for personnel in supervisory and managerial positions within the New Mexico National Guard. Supervisors/managers will ensure that all New Mexico National Guard employees work in an environment free from any form of unlawful discrimination or sexual harassment. Adherence to this policy will provide for the fair, equitable, and nondiscriminatory treatment of all employees. Consequently, employees will not be subjected to unlawful discrimination on the basis of race, color, religion, gender, national origin, age, handicap or sexual harassment.
3. EEO should be a critical and separate element in all supervisory and managerial positions, with responsibilities for carrying out EEO and Affirmative Employment for technician personnel. The CFR states that all agencies shall review, evaluate and control managerial and supervisory performance in such a manner as to ensure a continuing affirmative application and active enforcement of the policy of equal employment opportunity.
4. EEO must also be a critical element in positions where program management actions directly affect EEO: e.g., Personnel Officers, Staffing Specialists, Classifiers, etc. State Equal Employment Managers should advise management officials on the evaluation of performance in EEO.
5. Equal Employment Opportunity and Affirmative Employment are clearly management issues. They require the personal awareness and attention of every management official. By working together, we can strengthen our efforts throughout the New Mexico National Guard, and focus our energy and resources on maintaining the quality and integrity of the New Mexico National Guard.

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NMAG

SUBJECT: Equal Employment Opportunity Policy

6. The aforementioned references explain in detail how to file, process, investigate, and settle complaints of discrimination. Discrimination complaints must be filed within 45 calendar days from the date of the alleged discrimination or the date the individual became aware of the discriminatory event or action, 180 days on military complaints. All discrimination complaints will be taken seriously, and should be resolved at the lowest level possible.
7. An Employee who feels that she/he was unlawfully discriminated against may request the assistance of the State Equal Employment Manager (SEEM), an EO Counselor or EO Representative to assist them in resolving their discrimination complaint. Supervisors/managers will ensure that they provide the EO Counselors/Representative the time and cooperation required in their efforts of resolving discrimination issue(s). I also expect the supervisor/manager to take appropriate corrective action, when necessary.
8. Unlawful discrimination will not be tolerated in the New Mexico National Guard! If you have any questions or concerns on EEO issue(s), please contact the State Equal Employment Manager, MSG Stephen A. Gonzales at (505) 474-1228 or DSN 867-8228.

//signed//

KENNY C. MONTOYA,  
BG, NMARNG  
The Adjutant General

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## Handbook for AGRs and Guardmembers

# Military EO Program

**The Military Equal Opportunity (EO) program** is used by NMNG AGR soldiers and traditional members of the NMNG for resolving discrimination complaints through the military chain of command. The complaint process is contained in NGR 600-22/ANGI 36-3. Other references that describe the EO programs include EO Program in the Army National Guard NGR 600-21 and Air National Guard Military EO Program (MEO) ANGI 36-7.

- ❑ The process begins when an AGR/military member contacts a unit Equal Opportunity Representative (EOR), major command Equal Opportunity Advisor (EOA)(MEO), commander, or other leadership official with an informal complaint. The AGR/military member may also contact the State Equal Employment Manager (SEEM). Complaints should be filed with the lowest level chain of command.
- ❑ Contact must be made within 180 days after the incident occurred or within 180 days of the complainant's knowledge of the incident.
- ❑ The unit EOR or major command EOA/MEO will assist the AGR/military member with the complaint process and resolution of the issues.
- ❑ Based on initial fact-finding, the commander may request that an officer be appointed to conduct an inquiry into the matter.
- ❑ If the AGR or military member is not satisfied with the commander's findings, resolution, or actions regarding the complaint, the soldier must decide if he/she wishes to submit a formal complaint to the next command level.
- ❑ If AGR/military soldier so decides to, the complaint will be forwarded to each successive level of command until acceptable resolution has been accomplished.
- ❑ If the facts of the case warrant it, the commander at each level may order that additional inquiry be conducted. Reports of inquiry will be prepared and recommendations for corrective action (if appropriate) will be addressed.
- ❑ If the complaint has passed through all levels of command to The Adjutant General without resolution, The Adjutant General may order that a formal investigation be conducted. The investigation follows the procedures of AR 15-6/AFR 120-3.
- ❑ If no resolution at TAG's level, the entire case file will be forwarded to NGB for final review and decision.

# Equal Opportunity

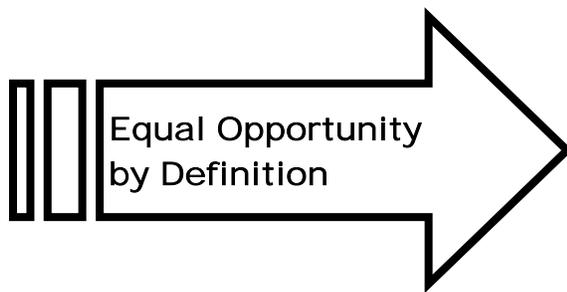
## Handbook for AGRs and Guardmembers

The Military EO Program NGR (AR) 600-21/ (AF) ANGI 36-7, NGR 600-22/ANGI 36-3

- If the incident occurs while the individual is in National Guard **military status** (IDT, UTA, AT, etc.), the Military EO Program applies.
- If the individual is **AGR**, the Military EO Program always applies.



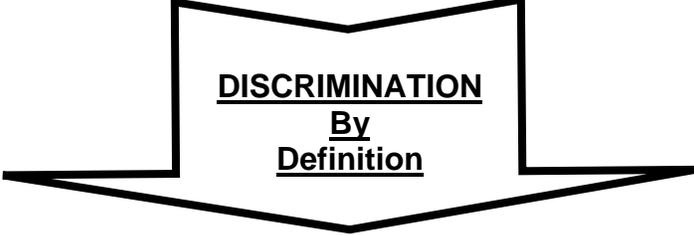
- v **Treat all people fairly & impartially, with full regard for their dignity as individuals.**
- v **Prohibit discrimination in the NMNG based on gender, race, color, religion, and national origin.**
- v **Assure fair treatment for all.**
- v **Promote unit effectiveness and cohesion.**
- v **Enhance combat readiness.**



**Equal evaluation, consideration, and treatment based on merit, fitness and capability without regard to race, gender, color, religion or national origin.**

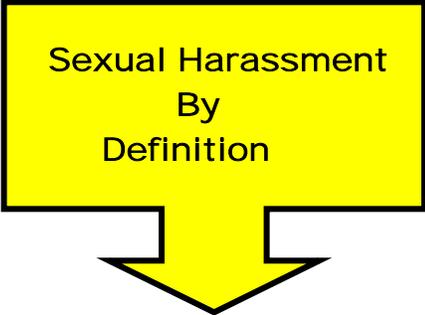
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**DISCRIMINATION**  
**By**  
**Definition**

The use of any selection procedure which has an adverse impact on hiring, promotion, or other employment or membership opportunities for individuals of any race, gender, color, religion, or national origin, when that person's race, gender, color, religion, or national origin is the basis for the selection.



**Sexual Harassment**  
**By**  
**Definition**

**Sexual harassment is a form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:**

- v **Submission to - or rejection of - such conduct is made a term or condition of employment, pay, or career, or**
- v **Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.**

**Any person in a leadership or supervisory position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.**

### Types of Sexual Harassment

**QUID PRO QUO (this-for-that) – occurs when a person is subjected to unwelcome sexual advances and submission to them becomes the basis for hiring, firing, career advancement**

**Hostile Environment – occurs when any type of unwelcome sexual behavior creates an uncomfortable (hostile) work environment**

### Examples of Sexual Harassment

- ❑ Unsolicited and unwelcome flirtations, advances or propositions.
- ❑ Graphic or degrading comments about someone's appearance, dress, anatomy.
- ❑ Display of sexually suggestive objects or pictures.
- ❑ Unwelcome dirty jokes and offensive gestures.
- ❑ Sexual or intrusive questions about someone's personal life.
- ❑ Explicit descriptions of the harasser's own sexual experiences.
- ❑ Abuse of familiarities or diminutives such as "honey", "baby", "dear".
- ❑ Unnecessary, unwanted physical contact such as touching, hugging, pinching, patting, kissing.
- ❑ Whistling, catcalls.
- ❑ Leering.
- ❑ Exposing genitalia.
- ❑ Physical or sexual assault.
- ❑ Rape.

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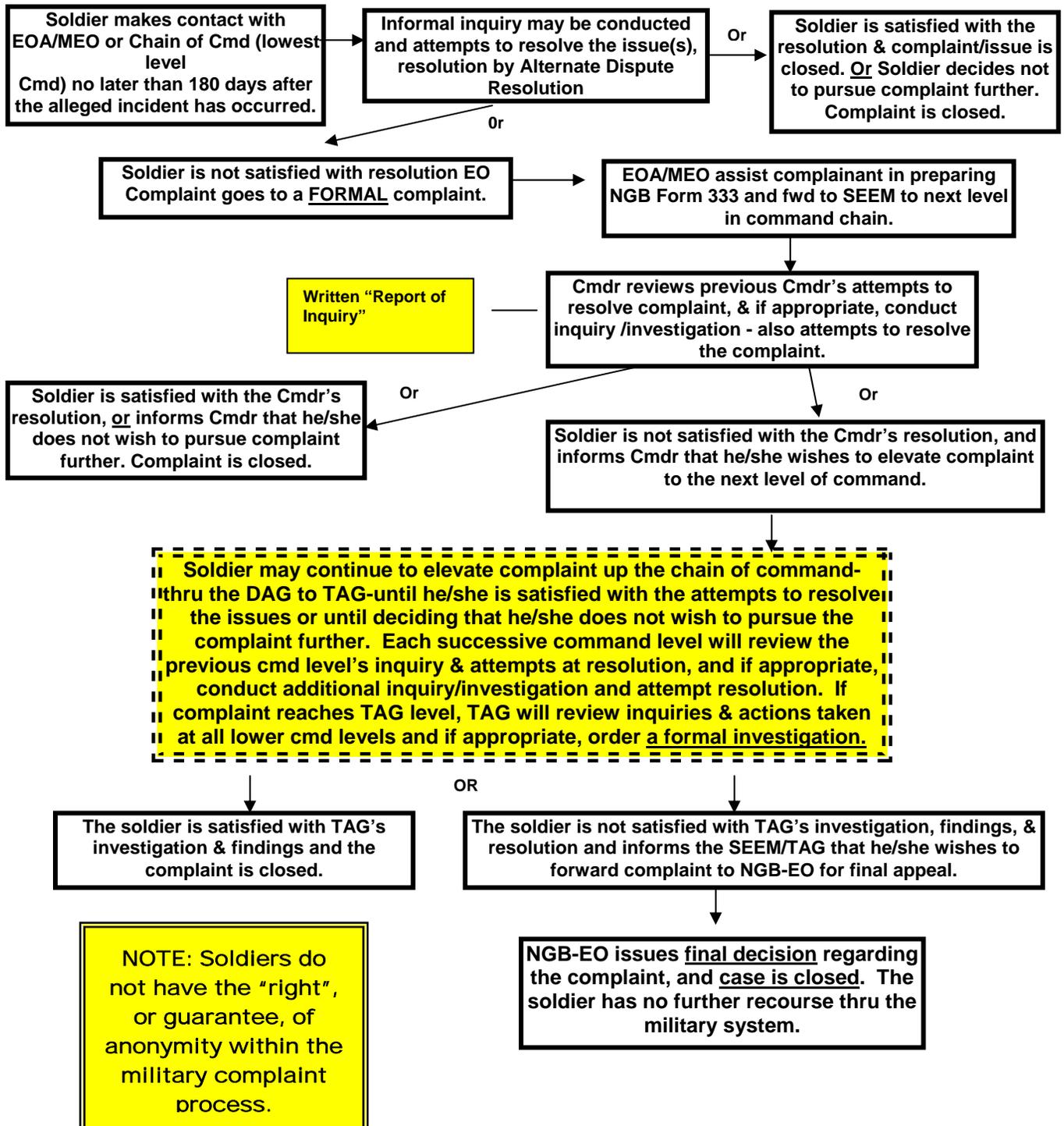
- v Talk with your immediate Supv, 1SG, or Cmdr
- v Contact your unit EOR/MEO
- v Contact your major command's Equal Opportunity Advisor (EOA)/(MEO)
- v Contact the State Equal Employment Manager
- v Contact your Battalion Chaplain
- v Talk with a Staff Judge Advocate (SJA)
- v Talk with the Inspector General (IG)

**REMEMBER – If possible, you should always use your  
Military Chain of Command first.**

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### THE MILITARY COMPLAINT PROCESS

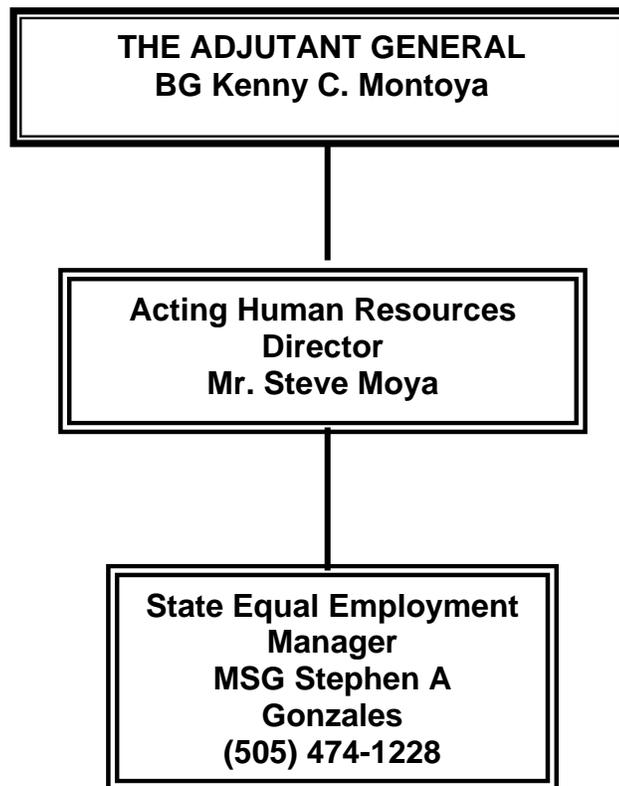


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## **NEW MEXICO NATIONAL GUARD**

**Equal Opportunity (EO) and Equal Employment Opportunity (EEO)  
Officials**



**REMEMBER – If possible, you should always use your  
Military Chain of Command first.**